

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant(s): James C. Bedingfield et al.

Title: System and Method of Automatically Updating Content
on a Web Site

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**BOARD OF PATENT APPEALS
AND INTERFERENCES**

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BRIEF IN SUPPORT OF APPEAL

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This brief contains these items under the following headings, and in the order set forth below (37 C.F.R. § 41.37(c)(1)):

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I. REAL PARTY IN INTEREST (37 C.F.R. § 41.37(c)(1)(i))

The Real Party in Interest in the present appeal is AT&T Intellectual Property I, L.P., the assignee of patent application no. 09/817,944, via transfer from AT&T Delaware Intellectual Property, Inc.

II. RELATED APPEALS AND INTERFERENCES (37 C.F.R. § 41.37(c)(1)(ii))

An appeal is pending in U.S. Application No. 10/961,870, which is a continuation-in-part of the present application.

III. STATUS OF CLAIMS (37 C.F.R. § 41.37(c)(1)(iii))**A. TOTAL NUMBER OF CLAIMS IN APPLICATION**

There are fifteen (15) claims pending in the application.

B. STATUS OF ALL CLAIMS

1. Claims pending:

Claims 1, 3, 4, 6, 7, 10, 11, 13, 16, and 18-23.

2. Claims withdrawn from consideration but not canceled:

NONE.

3. Claims allowed:

NONE.

4. Claims objected to:

NONE.

5. Claims rejected:

Claims 1, 3, 4, 6, 7, 10, 11, 13, 16, and 18-23 are rejected under 35 U.S.C.

§ 103(a).

6. Claims canceled:

Claims 2, 5, 8, 9, 12, 14, 15, 17, and 24-31 were canceled during prosecution.

C. CLAIMS ON APPEAL

The claims on appeal are claims 1, 3, 4, 6, 7, 10, 11, 13, 16, and 18-23.

IV. STATUS OF AMENDMENTS (37 C.F.R. § 41.37(c)(1)(iv))

No amendments have been submitted subsequent to the Office Action mailed April 26, 2010.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER (37 C.F.R. § 41.37(c)(1)(v))

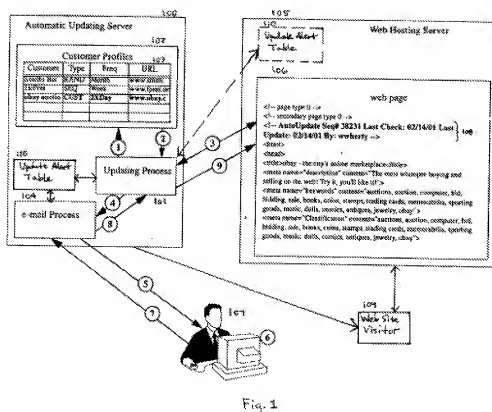


Fig. 1

Independent claim 11 recites a system for automatically updating content on a web site corresponding to a named party. The system includes a server **100** having non-volatile memory **102**. *Specification*, FIG. 1 (above); para. 0012. The system also includes updating software resident **101** on the server **100**. *Specification*, FIG. 1; para. 0012. The system further includes e-mail software resident **104** on the server **100**. *Specification*, FIG. 1; para. 0014. The system also includes a web hosting server **105** having a uniform resource locator, an e-mail address, an update type and an update frequency associated with the named party **107** and content resident thereon. *Specification*, FIG. 1; para. 0013 and 0014. The server **100**, based on the named party **107** and based on the update type being a random update type, is configured to select a random portion of the content residing on the web hosting server **105**. *Specification*, FIG. 1; para. 0013 and 0014. The server **100** is also configured to cause a copy of the random portion of the content residing on the web hosting server **105** to be submitted to the named party **107** as an e-mail attachment in an electronic message. *Specification*, FIG. 1; para. 0014. The server **100** is further configured to determine that the named party **107** has failed to reply to the electronic message, and to transmit the copy of the content on the web site **106** to the named party **107** as a reminder

electronic message. *Specification*, FIG. 1; para. 0014. The server **100** is also configured to cause the content residing on the web hosting server **105** to be updated based on a revised copy of the content that was submitted to the named party **107** in a reply from the electronic message and received at the server **100** as an e-mail attachment in the reply message. *Specification*, FIG. 1; para. 0015. The revised copy reflects revisions to the copy of the content on the web site **106** made by the named party **107**, the copy of content comprising graphic or text selected from the web site **106** for updating. *Specification*, FIG. 1; para. 0015.

Independent claim 1 recites a method (**200** in FIG. 2 below) of updating content on a web site. The method includes accessing an update profile **201**, the update profile comprising a named party, a uniform resource locator (URL) corresponding to the named party, an e-mail address corresponding to the named party, an update type corresponding to the named party and an update frequency corresponding to the named party. *Specification*, FIG. 2; para. 0012 and 0017.

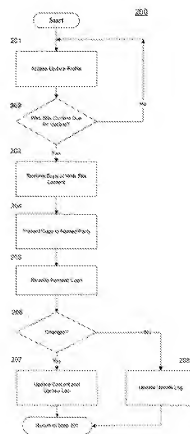


Fig. 2

The method further includes determining whether content on a web site corresponding to the named party URL is due to be updated **202** based on the update frequency, and retrieving a copy of the content on the web site **203** based on the update type being a random update type, the random update type specifying a random portion of the content on the web site that is retrieved and the copy of content comprising graphic or text selected from the web site for updating. *Specification*, FIG. 2; para. 0013 and 0017. The method further includes submitting the copy of the content on the web site to the named party **204** as an e-mail attachment in an electronic message. *Specification*, FIG. 2; para. 0014 and 0017. The method also includes determining that the named party has failed to reply to the electronic message, and transmitting the copy of the content on the web site to the named party as a reminder electronic message. *Specification*, FIG. 1; para. 0014. The method also includes receiving, as a reply from the reminder electronic message, a revised copy of the content on the web site from the named party **205** as an e-mail attachment, wherein the revised copy reflects revisions to the copy of the content on the web site made by the named party. *Specification*, FIG. 2; para. 0017. The method further includes updating the content on the web site **207** based on, the revised copy of the content on the web site received from the named party. *Specification*, FIG. 2; para. 0017.

Independent claim 7 recites a computer running executable code. The executable code is programmed to access an update profile, the update profile comprising a named party, an e-mail address corresponding to the named party, a uniform resource locator (URL) corresponding to the named party, an update type corresponding to the named party and an update frequency corresponding to the named party. *Specification*, FIG. 2; para. 0012 and 0017. The executable code is further programmed to determine whether content on a web site corresponding to the named party URL is due to be updated based on the update frequency, and to retrieve a copy of the content on the web site based on the named party URL and based on update type being a random update type, the random update type specifying a random portion of the content on the web site that is retrieved and the copy of content comprising graphic or text selected from the web site for updating. *Specification*, FIG. 2; para. 0013 and 0017. The executable code is further programmed to submit the copy of the content on the web site to the named party as an e-mail attachment in an electronic message. *Specification*, FIG. 2; para. 0014 and 0017. The executable code is also programmed to determine that the named party has failed to reply to the

electronic message, and to transmit the copy of the content on the web site to the named party as a reminder electronic message. *Specification*, FIG. 1; para. 0014. The executable code is also programmed to receive, in a reply from the reminder electronic message, a revised copy of the content on the web site from the named party as an e-mail attachment, wherein the revised copy reflects revisions to the copy of the content on the web site made by the named party.

Specification, FIG. 2; para. 0017. The executable code is further programmed to update the content on the web site based on the revised copy of the content on the web site received from the named party. *Specification*, FIG. 2; para. 0017.

**III. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL
(37 C.F.R. § 41.37(c)(1)(vi))**

Claims 1, 3, 4, 6, 7, 10, 11, 13, 16, and 18-23 were finally rejected under 35 U.S.C. § 103(a) over U.S. Patent No. 5,937,160 to Davis in view of U.S. Patent No. 6,405,245 to Burson, further in view of U.S. Patent Publication No. 2003/0028608 to Patterson, and still further in view of U.S. Patent No. 6,272,532 to Feinleib.

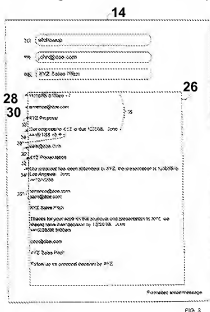
IV. ARGUMENT (37 C.F.R. § 41.37(c)(1)(vii))

A. THE PRIOR ART DISCLOSES THE OPPOSITE OF A FEATURE COMMON TO ALL OF THE CLAIMS

The independent claims all recite determining that a named party has failed to reply to an electronic message, and transmitting a copy of content on a web site to the named party as a reminder electronic message.

The Office acknowledges that “none of Davis, Burson, or Patterson explicitly disclose sending a reminder e-mail if the user failed to reply to the first e-mail.” Paradoxically, the Office asserts that “Feinleib discloses sending an e-mail regarding a task to be performed and if the e-mail is replied to a reminder e-mail can be sent at a later time to remind the user to complete the task (column 3, lines 17-33 of Feinleib).” Final Office Action at p. 5. (Emphasis added). This portion of Feinleib describes a user sending an email to a system to set a reminder date:

It is body 26 [shown in FIG. 3, below] of email message 14 which includes the reminder information. First line 28 in body 26 includes the date and time to send the reminder together with the date to resend the reminder. In this regard, “+7” means the reminder is to be resent, a second time, 7 days after “Nov. 18, 1998”. A blank line follows first line 28 to separate it from third line 30. Line 30 includes the address of the reminder recipient, in this case an email address. Additional recipients of the reminder would be listed one each on consecutive lines (see 30’). A blank line separator follows the list of email recipients. The fifth line 32 of message 26 includes the subject or “re:” line for reminder 12. A blank line separator follows line 32. A text for reminder 12 follows on lines 34 and until the symbol “=” or the end of the message. Again it is understood than[sic] module 22 could be configured for innumerable other different, but equally effective formats for transmitting reminder information by email message 14.



Thus, this portion of Feinleib does not teach transmitting a reminder electronic message to the user if the user fails to reply to an earlier electronic message. Rather, it teaches that a reminder date is set based on an email from the user.

Feinleib is silent as to what actions are taken by the system if the user does not reply to the reminder message. In summary, Feinleib teaches sending a reminder email in response to a user's email. All of the present claims recite the opposite – determining that a party has failed to reply to an electronic message, and transmitting a copy of the content as a reminder electronic message.

It is no surprise that the Board recently held that the prior art teaches away when the prior art teaches the exact opposite of the claims. *Ex Parte Jose Luis Millan and Robert Terkeltaub*, 2010 WL 3065973, (Bd. Pat. App. & Interf.), citing *In re Gurley*, 27 F.3d 551, 553, 31 USPQ2d 1130 (Fed. Cir. 1994). A *prima facie* case of obviousness is rebutted where the prior art in any material respect teaches away from the claimed invention. *In re Haruna*, 249 F.3d 1327, 1335, 58 USPQ2d 1517 (Fed. Cir. 2001).

The final rejection of all of the independent claims should therefore be reversed.

B. THE PRIOR ART DOES NOT SHOW RETRIEVING A RANDOM PORTION OF THE CONTENT ON THE WEB SITE DUE TO BE UPDATED AND SUBMITTING THE COPY TO THE NAMED PARTY, AS RECITED IN INDEPENDENT CLAIMS 1 AND 7

Independent claims 1 and 7 recite determining whether content on a web site is due to be updated, retrieving a copy of the content on the web site based on the update type being a random update type, the random update type specifying a random portion of the content on the website that is retrieved, and submitting the copy of the content on the web site to the named party.

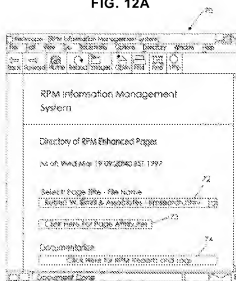
Contrary to the Office's assertion, the combination of Davis and Burson does not disclose these features.

1. Davis Shows Retrieving and Presenting Attributes of a Web Site, Not Retrieving and Submitting Content on the Web Site Due to be Updated

The Office posits that Davis shows that “[i]f the URL needs to be updated a user is notified via e-mail at which point the user accesses the page which causes the server to retrieve a copy of the page and present it to the user (Figure 14D and col. 13, line 51-col. 14, line 64 of Davis).” Final Office Action at p. 3.

The Office mischaracterizes how Davis works. The portion of Davis cited by the Office discusses Figures 12A-D, and describes that when the user receives the email, the user may select button 72 [Figure 12A, below] to change the attributes of a web page.

FIG. 12A



The attributes of the Web page are update notification settings for the Web page, such as an update frequency for the Web page, a person responsible for page content, and whether to send an update reminder via email. Davis at col. 14, lines 2-52. The attributes of the Web page are clearly different than the content of the Web page.

FIG. 14D shows an HTML file that has already been changed, not content that is due to be changed as claimed:

Referring now to FIG. 14A-14D, another example of operations for updating a Web page according to an embodiment of the present invention is illustrated. In FIG. 14A an e-mail message 90 is configured to transmit content changes to a Web page.

...

Referring now to FIG. 14C, the <RPM> markup tag 94 has been replaced with the content changes 91a provided within the e-mail message 90 (FIG. 14A). Subsequently, *the HTML source file 92 is saved to a predetermined browser-accessible directory in accordance with instructions within the configuration file affiliated therewith. FIG. 14D illustrates the saved file 95 as viewed by a browser on a client.*

Davis at col. 16, lines 34-38 and lines 61-67 (Emphasis added).

FIG. 14D-1

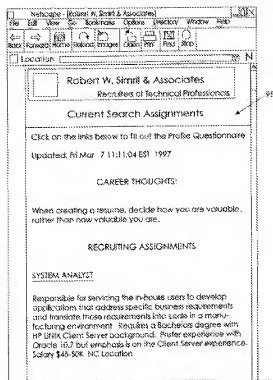


FIG. 14D-2

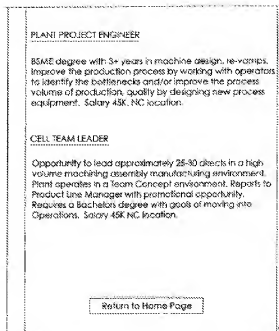


FIG. 14D

FIG. 14D-1

FIG. 14D-2

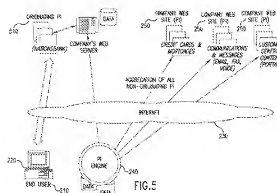
Thus, Davis shows retrieving and presenting attributes of a Web site, not retrieving and submitting content on the Web site due to be updated. The final rejection of independent claims 1 and 7 can be reversed on this basis alone.

2. **Burson Shows Presenting a User With Updates of All Portions of a Web Site at the Same Time, Not Submitting a Random Portion of the Web Site to a Named Party**

The Office asserts that Burson discloses that each portion of an intermediary website “is updated at random times from the PI [personal information] provider’s content, thus making each update performed an update on a random portion of the intermediary website (col. 12, line 6 – col. 13, line 5 of Burson).” Final Office Action at p. 4. This column-long portion of Burson is too long to reproduce in its entirety, but may be summarized:

This type of policy is the most difficult of all. Since the provider updates a user's account in a non-deterministic manner, a decision must be made for each provider as to the criticality of the information relative to the user. For those highly critical providers, each user account should be harvested daily, perhaps even more frequently. For those less critical providers, user accounts should be harvested less frequently and possible when overall system activity is low ... The PI deliver component 350 is responsible for formatting and delivering the PI to the end user. Usually delivery will only occur subsequent to updating all stale PI. The PI will be delivered to one or more destinations (e.g. facsimile, telephone, pager, Web browser, e-mail, etc.) as specified in the user store 360 except where the PI is accessed via an intermediary Web site ... In the case of an intermediary Web site, the PI is delivered in a format configurable by the intermediary Web site. FIG. 5 [below] pictorial [sic] illustrates a possible embodiment of the current invention utilizing an intermediary Web site. An end user 210 utilizes a client computer 220 to access an intermediary Web site 510 across the Internet 230. The end user 210 logs into the intermediary Web site 510. The intermediary Web site 510 contacts the PI engine 240 across the Internet 230 and directly receives the end user's PI updated as required from the PI provider Web sites 250. The intermediary Web site 510 receives the PI, incorporates it into pages according to its particular formatting style and graphical user interface and delivers these pages to the end user 210. The use of the PI engine 240 is transparent to the end user 210. Further, an intermediary Web site 510 serving aggregate PI to an end user 210 may, and most likely will, simultaneously serve as a PI provider.

Burson at col. 12, lines 6 – 44 (emphasis added).



This portion of Burson does not show that “each portion of an intermediary web site is updated at random times,” as asserted by the Office. Rather, it describes a pseudo-random update policy of personal information (PI) from providers. The pseudo-random update policy causes the PI engine to retrieve PI from the providers at different frequencies, and to provide the user with updates to each PI portion of the intermediary website at the same time. Therefore, Burson shows presenting a user with updates of all portions of a web site at the same time, not retrieving and submitting a random portion of the web site to a named party.

This is an independent reason why the final rejection of independent claims 1 and 7 should be reversed.

3. Neither Patterson nor Feinleib Overcome the Deficiencies of Davis and Burson

The Office does not suggest that either Patterson or Feinleib overcome the deficiencies of Davis and Burson, nor could it.

To establish *prima facie* obviousness of a claimed invention, all the claim features must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). All words in a claim must be considered in judging the patentability of that claim against the prior art. *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

The final rejection of independent claims 1 and 7 should therefore be reversed.

C. THE PRIOR ART DOES NOT SHOW SELECTING A RANDOM PORTION OF THE CONTENT AND SUBMITTING THE RANDOM PORTION TO THE NAMED PARTY, AS RECITED IN INDEPENDENT CLAIM 11

Independent claim 11 recites that the server is configured to select a random portion of the content residing on the web hosting server, and to cause a copy of the random portion of the content residing on the web hosting server to be submitted to the named party.

As stated above with respect to independent claims 1 and 7, Davis discloses enabling a user to view and/or modify attributes associated with a Web page, and Burson discloses a PI engine retrieving PI from providers at different frequencies and providing updates to all PI portions of an intermediary Web site at the same time. However, the combination of Davis and Burson does not disclose that the server is configured to select a random portion of the content residing on the web hosting server, and to cause a copy of the random portion of the content residing on the web hosting server to be submitted to the named party.

The final rejection of claim 11 should therefore be reversed.

V. CONCLUSION

None of independent claims 1, 7, and 11 are obvious over Davis in view of Burson, further in view of Patterson, and still further in view of Feinleib. Because remaining claims 3, 4, 6, 10, 13, 16, and 18-23 depend from claim 1, 7, or 11, Appellants respectfully request that the Board reverse the final rejection in its entirety.

Respectfully submitted,

Date 09/27/2010

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**VI. APPENDIX OF CLAIMS INVOLVED IN THE APPEAL
(37 C.F.R. §1.37(c)(1)(viii))**

The text of each claim involved in the appeal is as follows:

1. (Previously presented) A method of updating content on a web site, the method comprising:
 - accessing an update profile, the update profile comprising a named party, a uniform resource locator (URL) corresponding to the named party, an e-mail address corresponding to the named party, an update type corresponding to the named party and an update frequency corresponding to the named party;
 - determining whether content on a website corresponding to the named party URL is due to be updated based on the update frequency;
 - retrieving a copy of the content on the web site based on the update type being a random update type, the random update type specifying a random portion of the content on the website that is retrieved and the copy of content comprising graphic or text selected from the website for updating;
 - submitting the copy of the content on the web site to the named party as an e-mail attachment in an electronic message;
 - determining that the named party has failed to reply to the electronic message;
 - transmitting the copy of the content on the web site to the named party as a reminder electronic message;
 - receiving, as a reply from the reminder electronic message, a revised copy of the content on the web site from the named party as an e-mail attachment, wherein the revised copy reflects revisions to the copy of the content on the website made by the named party; and
 - updating the content on the web site based on, the revised copy of the content on the website received from the named party.
2. (Canceled)
3. (Original) The method of claim 1, wherein the web site content contains an update log and the updating step further comprises updating the update log.

4. (Original) The method of claim 3, wherein the update log comprises a last checked field and a last updated field.

5. (Canceled)

6. (Original) The method of claim 1, wherein the update profile comprises a web page on the web site.

7. (Previously presented) A computer running executable code, the executable code programmed to:

- access an update profile, the update profile comprising a named party, an e-mail address corresponding to the named party, a uniform resource locator (URL) corresponding to the named party, an update type corresponding to the named party and an update frequency corresponding to the named party;
- determine whether content on a web site corresponding to the named party URL is due to be updated based on the update frequency;
- retrieve a copy of the content on the web site based on the named party URL and based on update type being a random update type, the random update type specifying a random portion of the content on the website that is retrieved and the copy of content comprising graphic or text selected from the website for updating;
- submit the copy of the content on the web site to the named party as an e-mail attachment in an electronic message;
- determine that the named party has failed to reply to the electronic message;
- transmit the copy of the content on the web site to the named party as a reminder electronic message;
- receive, in a reply from the reminder electronic message, a revised copy of the content on the web site from the named party as an e-mail attachment, wherein the revised copy reflects revisions to the copy of the content on the website made by the named party; and
- update the content on the web site based on the revised copy of the content on the website received from the named party.

8. (Canceled)

9. (Canceled)

10. (Original) The computer of claim 7, wherein the update profile comprises a web page on the web site.

11. (Previously presented) A system for automatically updating content on a website corresponding to a named party, comprising:

- a server having non-volatile memory;
- updating software resident on the server;
- e-mail software resident on the server; and
- a web hosting server having a uniform resource locator (URL), an e-mail address, an update type and an update frequency associated with the named party and content resident thereon,

wherein the server, based on the named party and based on the update type being a random update type, is configured to select a random portion of the content residing on the web hosting server, to cause a copy of the random portion of the content residing on the web hosting server to be submitted to the named party as an e-mail attachment in an electronic message, to determine that the named party has failed to reply to the electronic message, to transmit the copy of the content on the web site to the named party as a reminder electronic message, and to cause the content residing on the web hosting server to be updated based on a revised copy of the content that was submitted to the named party in a reply from the electronic message and received at the server as an e-mail attachment in the reply message, wherein the revised copy reflects revisions to the copy of the content on the website made by the named party, the copy of content comprising graphic or text selected from the website for updating.

12. (Canceled)

13. (Original) The system of claim 11, wherein an update profile comprise a page of the content.

14. (Canceled)

15. (Canceled)

16. (Original) The system of claim 11, wherein the content contains an update log.

17. (Canceled)

18. (Previously presented) The method of claim 1 wherein the revised copy of the web site content includes rich text formatted content and the updating step includes mapping the rich text formatted content to hypertext markup language.

19. (Previously presented) The method of claim 1 wherein the update profile specifies predetermined graphics or text on the web site to be updated.

20. (Previously presented) The computer of claim 7 wherein the revised copy of the web site content includes rich text formatted content and the updating step includes mapping the rich text formatted content to hypertext markup language.

21. (Previously presented) The computer of claim 7 wherein the update profile specifies predetermined graphics or text on the web site to be updated.

22. (Previously presented) The system of claim 11 wherein the revised copy of the web site content includes rich text formatted content and the updating step includes mapping the rich text formatted content to hypertext markup language.

23. (Previously presented) The system of claim 11 wherein the update profile specifies predetermined graphics or text on the web site to be updated.

24. (Canceled)

25. (Canceled)

26. (Canceled)

27. (Canceled)

28. (Canceled)

29. (Canceled)

30. (Canceled)

31. (Canceled)

VII. EVIDENCE APPENDIX (37 C.F.R. § 41.37(c)(1)(ix))

Appellant entered no evidence pursuant to §1.130, 1.131 or 1.132, and the Examiner entered no evidence that was relied upon by Appellant.

VIII. RELATED PROCEEDINGS APPENDIX (37 C.F.R. § 41.37(c)(1)(x))

There are no decisions rendered by a court or interferences or other appeals that will directly affect, or be directly affected by, or have a bearing on the Board's decision in this appeal.